

Introduced by Senator Cox

February 15, 2008

An act to amend Sections 2816 and 2817 of the Penal Code, to amend Section 10122.5 of the Public Contract Code, and to repeal and add Section 1760.6 of the Welfare and Institutions Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1261, as introduced, Cox. Corrections: inmate and ward labor.

Under existing law, the general manager of the Prison Industry Authority is authorized to order any public works project involving construction, renovation, or repair of prison facilities to be performed by inmate labor, as specified.

This bill would instead authorize the chairperson of the Prison Industry Board, in consultation with the board, to order any public works project involving construction, renovation, or repair of prison or juvenile justice facilities to be performed by inmate or ward labor.

Existing law establishes the Inmate Construction Revolving Account, in the Prison Industries Revolving Fund, to receive funds transferred or deposited for the public works projects described above.

This bill would rename that account the Inmate and Ward Construction Revolving Account.

Existing law abolished the Youth Authority and instead established the Department of Corrections and Rehabilitation, which among other divisions, consists of the Division of Juvenile Justice. Existing law, however, still contains references to the Youth Authority, including provisions specifying that the Director of the Department of the Youth Authority may require wards to provide labor to construct, renovate,

or maintain facilities of the Youth Authority, as long as the cost of the project does not exceed a certain amount.

This bill would repeal those provisions and would instead authorize the Department of Corrections and Rehabilitation to provide for the payment of wages to wards for work performed, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in any manner and in any proportions that the department directs. This bill would also make a technical amendment in a provision relating to the use of day labor by the department.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2816 of the Penal Code is amended to
2 read:

3 2816. With the approval of the Department of Finance, there
4 shall be transferred to, or deposited in, the Prison Industries
5 Revolving Fund for purposes authorized by this section, money
6 appropriated from any source including sources other than state
7 appropriations.

8 Notwithstanding subdivision (b) of Section 2808, the ~~general~~
9 ~~manager chairperson~~ *chairperson, in consultation with the board*, may order
10 any authorized public works project involving construction,
11 renovation, or repair of prison *or juvenile justice* facilities to be
12 performed by inmate *or ward* labor when the total expenditure
13 does not exceed the project limit established by Section 10108 of
14 the Public Contract Code. Projects entailing expenditure of greater
15 than the project limit established by Section 10108 of the Public
16 Contract Code shall be reviewed and approved by the Secretary
17 of the Department of Corrections and Rehabilitation.

18 Money so transferred or deposited shall be available for
19 expenditure by the department for the purposes for which
20 appropriated, contributed or made available, without regard to
21 fiscal years and irrespective of the provisions of Sections 13340
22 and 16304 of the Government Code. Money transferred or
23 deposited pursuant to this section shall be used only for purposes
24 authorized in this section.

25 SEC. 2. Section 2817 of the Penal Code is amended to read:

1 2817. The Inmate *and Ward* Construction Revolving Account
2 is hereby created in the Prison Industries Revolving Fund,
3 established in Section 2806, to receive funds transferred or
4 deposited for the purposes described in Section 2816.

5 SEC. 3. Section 10122.5 of the Public Contract Code is
6 amended to read:

7 10122.5. For the purposes of Section 10122, all day labor
8 utilized by the Department of Corrections *and Rehabilitation* shall
9 be performed by individuals who are represented by a duly
10 authorized employee representative unless individuals with that
11 qualification are not reasonably available.

12 SEC. 4. Section 1760.6 of the Welfare and Institutions Code
13 is repealed.

14 ~~1760.6. (a) The director may require wards of the Youth~~
15 ~~Authority to perform work necessary and proper to construct,~~
16 ~~renovate, or maintain facilities of the Youth Authority. For~~
17 ~~purposes of this section, and notwithstanding Section 10108 of the~~
18 ~~Public Contract Code, the department may construct, renovate, or~~
19 ~~maintain facilities of the Youth Authority with hired or staff labor~~
20 ~~forces, so long as wards of the Youth Authority are utilized as a~~
21 ~~majority of the labor force and so long as the estimated cost of the~~
22 ~~project, if contracted, does not exceed the project limit established~~
23 ~~by Section 10108 of the Public Contract Code, provided that~~
24 ~~projects shall not be divided for the purpose of keeping within the~~
25 ~~project limitation. The department may provide for the payment~~
26 ~~of wages to wards of the Youth Authority for work performed~~
27 ~~pursuant to this section, the sums earned to be paid in reparation,~~
28 ~~or to the parents or dependents of the ward, or to the ward, in any~~
29 ~~manner and in any proportions as the department directs.~~

30 ~~(b) For minor capital outlay and maintenance projects that,~~
31 ~~pursuant to subdivision (a), the department has elected to~~
32 ~~accomplish with ward labor, if the department has not completed~~
33 ~~the project within the year of appropriation, then the amount of~~
34 ~~the unencumbered balance of the project shall be determined in~~
35 ~~accordance with Section 14959 of the Government Code, under~~
36 ~~which an estimate of the amount necessary for the completion of~~
37 ~~the project, including purchase of materials, hiring of labor and~~
38 ~~wards, equipment rental, supervision, and any other items, shall~~
39 ~~be deemed a valid encumbrance and shall be included with any~~

~~other valid encumbrances in determining the amount of the unencumbered balance.~~

~~(e) For the purposes of this section, at least 90 percent of any nonward day labor utilized by the department in conjunction with ward labor shall be performed by individuals who are represented by a duly authorized employee representative unless individuals with that qualification are not reasonably available.~~

SEC. 5. Section 1760.6 is added to the Welfare and Institutions Code, to read:

1760.6. The department may provide for the payment of wages to wards for work performed pursuant to Section 2816 of the Penal Code, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in any manner and in any proportions that the department directs.